

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**CAROL GIVENS,**

**Plaintiff,**

**v.**

**Civil Action 2:23-cv-1330  
Judge Sarah D. Morrison  
Magistrate Judge Chelsey M. Vascura**

**JUDGE JOHN VAVRA, *et al.*,**

**Defendants.**

**REPORT AND RECOMMENDATION**

After Plaintiff failed, for the third time, to comply with the Court’s deadlines to effect service of process over Defendant Greg P. Givens and defendants identified as “John Doe I” ad “Jane Doe I,” the Court ordered Plaintiff, for the third time, to show cause within fourteen days why the Court should not dismiss her claims against Mr. Givens and the Doe Defendants without prejudice for failure to effect service, and why the Court should allow an extension of time to effect service. (December 20, 2023 Show Cause Order, ECF No. 47.)

Plaintiff responded on January 2, 2024, stating that she did not request certified mail service through the Clerk’s Office for Mr. Givens as required by S.D. Ohio Civ. R. 4.2 because she was told by the Clerk’s Office that she must effect service herself. (Resp., ECF No. 48.) However, the Court has informed Plaintiff in three Orders, as far back as August 3, 2023, that the certified mail service she attempted on Mr. Givens was defective for failure to request certified mail service through the Clerk’s Office. (*See* August 3, 2023 Show Cause Order (ECF No. 35),

October 24, 2023 Show Cause Order (ECF No. 43), December 20, 2023 Show Cause Order (ECF No. 47).)

As to the Doe Defendants, Plaintiff states that these Defendants have been “fully identified upon discovery on other named, served, and perfected defendant(s) in this case.” (Resp. 2, ECF No. 48.) However, the docket does not reflect that Plaintiff has sought leave to amend the Complaint to substitute the real names of the Doe Defendants or effected service of process over them in compliance with the Court’s deadlines.

In short, it appears Plaintiff has made little to no progress in serving Mr. Givens or the Doe Defendants since the Second Show Cause Order. Given that this case remains in its procedural infancy despite having been commenced almost nine months ago, that the Court has extended Plaintiff’s deadlines to effect service multiple times, and that Plaintiff has repeatedly failed to comply with those extended deadlines, the undersigned concludes that Plaintiff has not shown good cause for a further extension of time to effect service of process over Mr. Givens or the Doe Defendants. Accordingly, it is **RECOMMENDED** that Plaintiff’s claims against Mr. Givens and the Doe Defendants be **DISMISSED WITHOUT PREJUDICE** pursuant to Rule 4(m) for failure to timely effect service of process.

#### **PROCEDURE ON OBJECTIONS**

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A District Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations

to which objection is made. Upon proper objections, a District Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

/s/ Chelsey M. Vascura  
CHELSEY M. VASCURA  
UNITED STATES MAGISTRATE JUDGE